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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/684,955	10/13/2003	Yuri Leontiev	INTU-990057USCIP1	3680

63773 7590 01/25/2012
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EXAMINER	
PRIETO, TOMAS A	

ART UNIT	PAPER NUMBER
3621	

MAIL DATE	DELIVERY MODE
01/25/2012	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/684,955	LEONTIEV ET AL.	
	Examiner	Art Unit	
	TOMAS PRIETO	3621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *June 1, 2010*.
2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.
3)☐ An election was made by the applicant in response to a restriction requirement set forth during the interview on _____; the restriction requirement and election have been incorporated into this action.
4)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

5)☒ Claim(s) *64-87* is/are pending in the application.
  5a) Of the above claim(s) _____ is/are withdrawn from consideration.
6)☐ Claim(s) _____ is/are allowed.
7)☒ Claim(s) *64-87* is/are rejected.
8)☐ Claim(s) _____ is/are objected to.
9)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

10)☒ The specification is objected to by the Examiner.
11)☒ The drawing(s) filed on *4/13/2009* is/are: a)☒ accepted or b)☐ objected to by the Examiner.
  Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
  Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
12)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  a)☐ All b)☐ Some * c)☐ None of:
    1.☐ Certified copies of the priority documents have been received.
    2.☐ Certified copies of the priority documents have been received in Application No. _____.
    3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
  * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
  Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
  Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Acknowledgements

1. This office action is in response to Applicants' Request for Continued Examination filed June 1, 2010 ("2010 RCE").

2. The 2010 RCE contains, inter alia:

   a. Amendments to the Claims ("2010 June Claims"), beginning on page 2.

   b. Remarks ("2010 June Remarks"), beginning on page 10.

3. Of the June 2010 Claims:

   c. Claims 1-63 are cancelled ("Cancelled Claims").

   d. Claims 64-87 are pending ("Pending Claims").

   e. Claims 64-87 are examined ("Examined Claims").

4. This office action is assigned Paper No. 20120119. Paper No. is for reference purposes only.

Specification

5. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required:

   f. "a rate of modification" in claims 64, 68, 72, 76, 80 and 84.

Claim Rejections - 35 USC § 112, 1st Paragraph

6. The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

7. Claims 68-71, 76-79 and 84-87 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claim 68

8. Claim 68 recites:

> i. determining that a rate of modification for the hardware configuration *is less than* a permitted rate of modification for the hardware configuration, wherein the rate of modification is based on the difference between the current date and the modification date for the previously stored hardware configuration identifier;
>
> ii. updating the stored hardware configuration identifier with the received hardware identifier;
>
> iii. updating the hardware configuration identifier modification date with the current date;
>
> iv. returning software license information to the client to grant access to the software feature.

9. Claim 68 fails to comply with the written description requirement because the steps of “updating the stored hardware configuration identifier..." and "updating the hardware

configuration identifier..." when “a rate of modification for the hardware configuration *is less than* a permitted rate of modification” was not described in the specification.

10. Based on a review of the specification, Examiner finds support in para [0044] of the specification for an embodiment where the “current date **113** is not sufficiently later than the stored hardware configuration identifier modification date **111**", but "the server **108** sends license information **101** to the client **103** allowing the user **102** to run the software". However, support for the claim is insufficient because in this embodiment “the server **108** does not update the stored software license information **101** concerning….current date **113**" (para [0044] of the specification).

Claim 76

11. Claim 76 recites:

> v. determining that a rate of modification for the hardware configuration *is less than* a permitted rate of modification for the hardware configuration, wherein the rate of modification is based on the difference between the current date and the modification date for the previously stored hardware configuration identifier modification date;
>
> vi. updating the stored hardware configuration identifier with the received hardware identifier;
>
> vii. updating the hardware configuration identifier modification date with the current date;
>
> viii. returning software license information to the client to grant access to the software feature.

12. Claim 76 fails to comply with the written description requirement because the steps of “updating the stored hardware configuration identifier..." and "updating the hardware

configuration identifier..." when “a rate of modification for the hardware configuration *is less than* a permitted rate of modification” was not described in the specification.

13. Based on a review of the specification, Examiner finds support in para [0044] of the specification for an embodiment where the “current date **113** is not sufficiently later than the stored hardware configuration identifier modification date **111**", but "the server **108** sends license information **101** to the client **103** allowing the user **102** to run the software". However, support for the claim is insufficient because in this embodiment “the server **108** does not update the stored software license information **101** concerning….current date **113**" (para [0044] of the specification).

Claim 84

14. Claim 84 recites:

> ix. a second determination mechanism configured to determine that a rate of modification for the hardware configuration *is less than* a permitted rate of modification for the hardware configuration, wherein the rate of modification is based on the difference between the current date and the modification date for the previously stored hardware configuration identifier modification date;
>
> x. a first updating mechanism configured to update the stored hardware configuration identifier with the received hardware identifier;
>
> xi. a second updating mechanism configured to update the hardware configuration identifier modification date with the current date;
>
> xii. a communication mechanism configured to return software license information to the client to grant access to the software feature.

15. Claim 84 fails to comply with the written description requirement because the steps of “update the stored hardware configuration identifier..." and "update the hardware configuration identifier..." when “a rate of modification for the hardware configuration *is less than* a permitted rate of modification” was not described in the specification.

16. Based on a review of the specification, Examiner finds support in para [0044] of the specification for an embodiment where the “current date **113** is not sufficiently later than the stored hardware configuration identifier modification date **111**", but "the server **108** sends license information **101** to the client **103** allowing the user **102** to run the software". However, support for the claim is insufficient because in this embodiment “the server **108** does not update the stored software license information **101** concerning….current date **113**" (para [0044] of the specification).

Claim Rejections - 35 USC § 112, 2nd Paragraph

17. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

18. Claims 64-79 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential steps, such omission amounting to a gap between the steps. See MPEP § 2172.01.

Claim 64

19. Claim 64 recites the following steps:

g. "determining that a rate of modification…previously stored hardware configuration identifier;" and

h. "returning software license information to the client to prevent access to the software feature."

20. The omitted step is the step linking the "determining that a rate of modification..." and "returning software license information..." steps: preventing access to the software feature if the rate of modification is less than the permitted rate for the software configuration.

Claim 68

21. Claim 68 recites the following steps:

i. "determining that a rate of modification…previously stored hardware configuration identifier;"

j. "updating the stored hardware configuration identifier…";

k. "updating the hardware configuration identifier…"; and

l. "returning software license information to the client to grant access to the software feature."

22. The omitted step is the step linking the "determining that a rate of modification..." and "returning software license information..." steps: granting access to the software feature if the rate of modification is less than the permitted rate for the software configuration.

Claim 72

23. Claim 72 recites the following steps:

m. “determining that a rate of modification…previously stored hardware configuration identifier;” and

n. “returning software license information to the client to prevent access to the software feature.”

24. The omitted step is the step linking the "determining that a rate of modification..." and "returning software license information..." steps: preventing access to the software feature if the rate of modification is less than the permitted rate for the software configuration.

Claim 76

25. Claim 76 recites the following steps:

o. “determining that a rate of modification…previously stored hardware configuration identifier;”

p. “updating the stored hardware configuration identifier…”;

q. “updating the hardware configuration identifier…”; and

r. “returning software license information to the client to grant access to the software feature.”

26. The omitted step is the step linking the "determining that a rate of modification..." and "returning software license information..." steps: granting access to the software feature if the rate of modification is less than the permitted rate for the software configuration.

Claim Rejections - 35 USC § 103

27. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

28. Claims 64-87 are rejected under 35 U.S.C. §103(a) as being unpatentable over Hughes, et al (US 2001/0044782 A1)("Hughes") in view of Dublish, et al (US 2004/0133792 A1)("Dublish").

29. As per claim 64, Hughes discloses a *method executed by a server* **334** *that comprises hardware components for dynamically managing a user software license* (see para [0054], where activation unit **110** of activation server **334** checks database **114** for records involving the received product ID to determine whether the received hardware ID is deemed acceptable), *the method comprising:*

s. *receiving a request at the server* **334** *from a client* **20** *to access a software feature on the client* **20** (see para [0054], where software product sends product ID and hardware ID over network **336** to activation unit **110** of activation server **334**, which checks database **114** for records involving the received product ID to determine whether the received hardware ID is deemed an acceptable upgrade to allow running of the software), *wherein the request includes a software identifier* (product ID) *that uniquely identifies the software and a hardware configuration identifier* (hardware ID) *corresponding to a* *hardware profile of the client* **20** (see para [0054], where product ID and hardware ID are received by activation server **334**)*;*

t. *retrieving a previously stored hardware configuration identifier for the previously stored hardware configuration identifier based at least on the received software identifier* (see para [0054], where the activation unit **110** checks the database **114** for any prior records involving the product ID, and if records with the same product ID exist, the activation unit **110** evaluates the hardware IDs associated with the product IDs to determine how they have changed)*;*

u. *determining that the received hardware configuration identifier is different from the hardware configuration identifier previously stored on the server* **334** (see para [0055], where the activation unit determines that any two hardware IDs for the same product ID differ by more than two of the five digits)*; and*

v. *returning software license information to the client to prevent access to the software feature* (see para [0055], where the activation unit determines that any two hardware IDs for the same product ID differ by more than two of the five digits and returns a message denying a new license file and explaining that a new license is required before the product can be reinstalled and run on the new computer).

30. Hughes does not specifically disclose *a modification date* and *determining that a rate of modification for the hardware configuration is less than a permitted rate of modification for the hardware configuration, wherein the rate of modification is based on the difference between a current date and the modification date for the previously stored hardware configuration identifier*.

31. Dublish teaches *a modification date* (see Abstract, where for each hardware component, the time vector may indicate an expiration period after which a change in the component may be allowed) and *determining that a rate of modification for the hardware configuration is less than a permitted rate of modification for the hardware configuration* (see Abstract, where for each hardware component, the time vector may indicate an expiration period after which a change in the component may be allowed)*, wherein the rate of modification is based on the difference between a current date and the modification date for the previously stored hardware configuration identifier* (see Abstract, where for each hardware component, the time vector may indicate an expiration period after which a change in the component may be allowed; see also para [0053], where time vector **230** may be employed when calculating a matching score, where time vector **230** contains a value for a component that is the expiration for the use of that component in comparing the two HWIDs, such as a two year period for the CDROM component; see also para [0054], where a license date may be included in license data **200** or, alternatively, a time vector **230** value may be expressed as a set date).

32. Therefore, it would have been obvious to one of ordinary skill in the art, at the time of invention, to add Dublish's use of time vectors of hardware components as part of a calculation of a matching score in system validation to Hughes' use of hardware identifiers to distinguish legitimate computer upgrades from the use of software on new computers.

33. A person having ordinary skill in the art would have been motivated to make this addition because it is desirable for a system "to be used for identifying and linking a licensed instantiation of software to one computer system, while tolerating changes in the computer system of a

legitimate user with the flexibility required to accommodate hardware system changes and adapt to the passage of time" (see Dublish, para [0009]).

34. As per claim 65, Hughes and Dublish disclose as discussed above. Hughes further discloses *wherein retrieving previously stored hardware configuration identifier comprises retrieving a set of stored software license information corresponding to the software identifier* (see para [0054], where the activation unit **110** checks the database **114** for any prior records involving the product ID).

35. As per claim 66, Hughes and Dublish disclose as discussed above. Hughes further discloses *wherein the hardware configuration identifier contains information representing a plurality of hardware components to identify a client computer* (see para [0015], where the hardware ID identifies the set of hardware components on the computer).

36. As per claim 67, Hughes and Dublish disclose as discussed above. Dublish further discloses *wherein the hardware configuration identifier comprises a hash of values corresponding to a number of selected components on a client computer* (see para [0048], where hardware identifiers for each components are hashed to produce a hashed value, which is included in the HWID).

37. As per claim 68, Hughes discloses a *method executed by a server* **334** *that comprises hardware components for dynamically managing a user software license, the method comprising*

(see para [0054], where activation unit **110** of activation server **334** checks database **114** for records involving the received product ID to determine whether the received hardware ID is deemed acceptable)*:*

w. *receiving a request at the server* **334** *from a client* **20** *to access a software feature on the client* **20** (see para [0054], where software product sends product ID and hardware ID over network **336** to activation unit **110** of activation server **334**, which checks database **114** for records involving the received product ID to determine whether the received hardware ID is deemed an acceptable upgrade to allow running of the software), *wherein the request includes a software identifier* (product ID) *that uniquely identifies the software and a hardware configuration identifier* (hardware ID) *corresponding to a hardware profile of the client* **20** (see para [0054], where product ID and hardware ID are received by activation server **334**)*;*

x. *retrieving a previously stored hardware configuration identifier for the previously stored hardware configuration identifier based at least on the received software identifier* (see para [0054], where the activation unit **110** checks the database **114** for any prior records involving the product ID, and if records with the same product ID exist, the activation unit **110** evaluates the hardware IDs associated with the product IDs to determine how they have changed)*;*

y. *determining that the received hardware configuration identifier is different from the hardware configuration identifier previously stored on the server* **334** (see para [0055], where the activation unit determines that any two hardware IDs for the same product ID differ by more than two of the five digits)*;*

z. *updating the stored hardware configuration identifier with the received hardware identifier* (see para [0054], where the activation unit creates a new license file and returns it to the customer computer and creates a new record in the database **116**; see also para [0072], where the expanded H/W ID may include version number bits that help identify at what point in time an expanded H/W ID was created and whether or not it needs to be changed to reflect technological hardware advancements)*; and*

aa. *returning software license information to the client* **20** *to grant access to the software feature* (see para [0054], where the activation unit creates a new license file and returns it to the customer computer and creates a new record in the database **116**; see also para [0050], wherein if a computer is deemed an upgrade, the software product is enabled to operate on the computer).

38. While Hughes discloses *updating the hardware configuration identifier* (see para [0054], where the activation unit creates a new license file and returns it to the customer computer and creates a new record in the database **116**; see also para [0072], where the expanded H/W ID may include version number bits that help identify at what point in time an expanded H/W ID was created and whether or not it needs to be changed to reflect technological hardware advancements), Hughes does not specifically disclose a *modification date; determining that a rate of modification for the hardware configuration is less than a permitted rate of modification for the hardware configuration, wherein the rate of modification is based on the difference between a current date and the modification date for the previously stored hardware configuration identifier modification date;* and *updating the hardware identifier modification date with the current date.*

39. Dublish teaches *a modification date* (see Abstract, where for each hardware component, the time vector may indicate an expiration period after which a change in the component may be allowed); *determining that a rate of modification for the hardware configuration is less than a permitted rate of modification for the hardware configuration* (see Abstract, where for each hardware component, the time vector may indicate an expiration period after which a change in the component may be allowed)*, wherein the rate of modification is based on the difference between a current date and the modification date for the previously stored hardware configuration identifier* (see Abstract, where for each hardware component, the time vector may indicate an expiration period after which a change in the component may be allowed; see also para [0053], where time vector **230** may be employed when calculating a matching score, where time vector **230** contains a value for a component that is the expiration for the use of that component in comparing the two HWIDs, such as a two year period for the CDROM component; see also para [0054], where a license date may be included in license data **200** or, alternatively, a time vector **230** value may be expressed as a set date); and a *hardware identifier modification date* based on the *current date* (see para [0053], where a time vector can be set for a component relative to a license creation date at time of creation, such as a two-year period; see also para [0054], where the license date may be included in license data **200** or a time vector **230** value may be expressed as a set date).

40. Therefore, it would have been obvious to one of ordinary skill in the art, at the time of invention, to add Dublish's use of time vectors of hardware components as part of a calculation of a matching score in system validation to Hughes' use of hardware identifiers to distinguish legitimate computer upgrades from the use of software on new computers.

41. A person having ordinary skill in the art would have been motivated to make this addition because it is desirable for a system "to be used for identifying and linking a licensed instantiation of software to one computer system, while tolerating changes in the computer system of a legitimate user with the flexibility required to accommodate hardware system changes and adapt to the passage of time" (see Dublish, para [0009]).

42. As per claim 69, Hughes and Dublish disclose as discussed above. Hughes further discloses *wherein retrieving previously stored hardware configuration identifier comprises retrieving a set of stored software license information corresponding to the software identifier* (see para [0054], where the activation unit **110** checks the database **114** for any prior records involving the product ID).

43. As per claim 70, Hughes and Dublish disclose as discussed above. Hughes further discloses *wherein the hardware configuration identifier contains information representing a plurality of hardware components to identify a client computer* (see para [0015], where the hardware ID identifies the set of hardware components on the computer).

44. As per claim 71, Hughes and Dublish disclose as discussed above. Dublish further discloses *wherein the hardware configuration identifier comprises a hash of values corresponding to a number of selected components on a client computer* (see para [0048], where hardware identifiers for each components are hashed to produce a hashed value, which is included in the HWID).

45. As per claim 72, Hughes discloses a *computer readable storage medium storing instructions which when executed by a computer cause the computer to perform a method for dynamically managing a user software license* (see para [0054], where activation unit **110** of activation server **334** checks database **114** for records involving the received product ID to determine whether the received hardware ID is deemed acceptable), *the method comprising:*

bb. *receiving a request at the server* **334** *from a client* **20** *to access a software feature on the client* **20** (see para [0054], where software product sends product ID and hardware ID over network **336** to activation unit **110** of activation server **334**, which checks database **114** for records involving the received product ID to determine whether the received hardware ID is deemed an acceptable upgrade to allow running of the software), *wherein the request includes a software identifier* (product ID) *that uniquely identifies the software and a hardware configuration identifier* (hardware ID) *corresponding to a hardware profile of the client* **20** (see para [0054], where product ID and hardware ID are received by activation server **334**)*;*

cc. *retrieving a previously stored hardware configuration identifier for the previously stored hardware configuration identifier based at least on the received software identifier* (see para [0054], where the activation unit **110** checks the database **114** for any prior records involving the product ID, and if records with the same product ID exist, the activation unit **110** evaluates the hardware IDs associated with the product IDs to determine how they have changed)*;*

dd. *determining that the received hardware configuration identifier is different from the hardware configuration identifier previously stored on the server* **334** (see para [0055], where the activation unit determines that any two hardware IDs for the same product ID differ by more than two of the five digits)*;*

ee. *returning software license information to the client to prevent access to the software feature* (see para [0055], where the activation unit determines that any two hardware IDs for the same product ID differ by more than two of the five digits and returns a message denying a new license file and explaining that a new license is required before the product can be reinstalled and run on the new computer).

46. Hughes does not specifically disclose *a modification date* and *determining that a rate of modification for the hardware configuration is less than a permitted rate of modification for the hardware configuration, wherein the rate of modification is based on the difference between a current date and the modification date for the previously stored hardware configuration identifier modification date.*

47. Dublish teaches *a modification date* (see Abstract, where for each hardware component, the time vector may indicate an expiration period after which a change in the component may be allowed) and *determining that a rate of modification for the hardware configuration is less than a permitted rate of modification for the hardware configuration* (see Abstract, where for each hardware component, the time vector may indicate an expiration period after which a change in the component may be allowed)*, wherein the rate of modification is based on the difference between a current date and the modification date for the previously stored hardware configuration identifier modification date* (see Abstract, where for each hardware component, the

time vector may indicate an expiration period after which a change in the component may be allowed; see also para [0053], where time vector **230** may be employed when calculating a matching score, where time vector **230** contains a value for a component that is the expiration for the use of that component in comparing the two HWIDs, such as a two year period for the CDROM component; see also para [0054], where a license date may be included in license data **200** or, alternatively, a time vector **230** value may be expressed as a set date).

48. Therefore, it would have been obvious to one of ordinary skill in the art, at the time of invention, to add Dublish's use of time vectors of hardware components as part of a calculation of a matching score in system validation to Hughes' use of hardware identifiers to distinguish legitimate computer upgrades from the use of software on new computers.

49. A person having ordinary skill in the art would have been motivated to make this addition because it is desirable for a system "to be used for identifying and linking a licensed instantiation of software to one computer system, while tolerating changes in the computer system of a legitimate user with the flexibility required to accommodate hardware system changes and adapt to the passage of time" (see Dublish, para [0009]).

50. As per claim 73, Hughes and Dublish disclose as discussed above. Hughes further discloses *wherein retrieving previously stored hardware configuration identifier comprises retrieving a set of stored software license information corresponding to the software identifier* (see para [0054], where the activation unit **110** checks the database **114** for any prior records involving the product ID).

51. As per claim 74, Hughes and Dublish disclose as discussed above. Hughes further discloses *wherein the hardware configuration identifier contains information representing a plurality of hardware components to identify a client computer* (see para [0015], where the hardware ID identifies the set of hardware components on the computer).

52. As per claim 75, Hughes and Dublish disclose as discussed above. Dublish further discloses *wherein the hardware configuration identifier comprises a hash of values corresponding to a number of selected components on a client computer* (see para [0048], where hardware identifiers for each components are hashed to produce a hashed value, which is included in the HWID).

53. As per claim 76, Hughes discloses a *computer readable storage medium storing instructions which when executed by a computer cause the computer to perform a method for dynamically managing a user software license* (see para [0054], where activation unit **110** of activation server **334** checks database **114** for records involving the received product ID to determine whether the received hardware ID is deemed acceptable), *the method comprising:*

ff. *receiving a request at the server* **334** *from a client* **20** *to access a software feature on the client* **20** (see para [0054], where software product sends product ID and hardware ID over network **336** to activation unit **110** of activation server **334**, which checks database **114** for records involving the received product ID to determine whether the received hardware ID is deemed an acceptable upgrade to allow running of the software), *wherein the request includes a software identifier* (product ID) *that uniquely identifies the* *software and a hardware configuration identifier* (hardware ID) *corresponding to a hardware profile of the client* **20** (see para [0054], where product ID and hardware ID are received by activation server **334**)*;*

gg. *retrieving a previously stored hardware configuration identifier for the previously stored hardware configuration identifier based at least on the received software identifier* (see para [0054], where the activation unit **110** checks the database **114** for any prior records involving the product ID, and if records with the same product ID exist, the activation unit **110** evaluates the hardware IDs associated with the product IDs to determine how they have changed)*;*

hh. *determining that the received hardware configuration identifier is different from the hardware configuration identifier previously stored on the server* **334** (see para [0055], where the activation unit determines that any two hardware IDs for the same product ID differ by more than two of the five digits)*;*

ii. *updating the stored hardware configuration identifier with the received hardware identifier* (see para [0054], where the activation unit creates a new license file and returns it to the customer computer and creates a new record in the database **116**; see also para [0072], where the expanded H/W ID may include version number bits that help identify at what point in time an expanded H/W ID was created and whether or not it needs to be changed to reflect technological hardware advancements)*; and*

jj. *returning software license information to the client* **20** *to grant access to the software feature* (see para [0054], where the activation unit creates a new license file and returns it to the customer computer and creates a new record in the database **116**; see also para [0050], wherein if a computer is deemed an upgrade, the software product is enabled to operate on the computer).

54. While Hughes discloses *updating the hardware configuration identifier* (see para [0054], where the activation unit creates a new license file and returns it to the customer computer and creates a new record in the database **116**; see also para [0072], where the expanded H/W ID may include version number bits that help identify at what point in time an expanded H/W ID was created and whether or not it needs to be changed to reflect technological hardware advancements), Hughes does not specifically disclose a *modification date; determining that a rate of modification for the hardware configuration is less than a permitted rate of modification for the hardware configuration, wherein the rate of modification is based on the difference between a current date and the modification date for the previously stored hardware configuration identifier modification date;* and *updating the hardware identifier modification date with the current date.*

55. Dublish teaches *a modification date* (see Abstract, where for each hardware component, the time vector may indicate an expiration period after which a change in the component may be allowed) and *determining that a rate of modification for the hardware configuration is less than a permitted rate of modification for the hardware configuration* (see Abstract, where for each hardware component, the time vector may indicate an expiration period after which a change in the component may be allowed), *wherein the rate of modification is based on the difference between a current date and the modification date for the previously stored hardware configuration identifier modification date* (see Abstract, where for each hardware component, the time vector may indicate an expiration period after which a change in the component may be

allowed; see also para [0053], where time vector **230** may be employed when calculating a matching score, where time vector **230** contains a value for a component that is the expiration for the use of that component in comparing the two HWIDs, such as a two year period for the CDROM component; see also para [0054], where a license date may be included in license data **200** or, alternatively, a time vector **230** value may be expressed as a set date); and a *hardware identifier modification date* based on the *current date* (see para [0053], where a time vector can be set for a component relative to a license creation date at time of creation, such as a two-year period; see also para [0054], where the license date may be included in license data **200** or a time vector **230** value may be expressed as a set date).

56. Therefore, it would have been obvious to one of ordinary skill in the art, at the time of invention, to add Dublish's use of time vectors of hardware components as part of a calculation of a matching score in system validation to Hughes' use of hardware identifiers to distinguish legitimate computer upgrades from the use of software on new computers.

57. A person having ordinary skill in the art would have been motivated to make this addition because it is desirable for a system "to be used for identifying and linking a licensed instantiation of software to one computer system, while tolerating changes in the computer system of a legitimate user with the flexibility required to accommodate hardware system changes and adapt to the passage of time" (see Dublish, para [0009]).

58. As per claim 77, Hughes and Dublish disclose as discussed above. Hughes further discloses *wherein retrieving previously stored hardware configuration identifier comprises retrieving a set of stored software license information corresponding to the software identifier*

(see para [0054], where the activation unit **110** checks the database **114** for any prior records involving the product ID).

59. As per claim 78, Hughes and Dublish disclose as discussed above. Hughes further discloses *wherein the hardware configuration identifier contains information representing a plurality of hardware components to identify a client computer* (see para [0015], where the hardware ID identifies the set of hardware components on the computer).

60. As per claim 79, Hughes and Dublish disclose as discussed above. Dublish further discloses *wherein the hardware configuration identifier comprises a hash of values corresponding to a number of selected components on a client computer* (see para [0048], where hardware identifiers for each components are hashed to produce a hashed value, which is included in the HWID).

61. As per claim 80, Hughes discloses a *computer system for dynamically managing a user software license, the computer system* **300** *comprising:*

kk. *a processor* **21** (see para [0028], where computer **20** has processing unit **21**)*;*

ll. *a memory* **22** (see para [0028], where computer **20** has system memory **22**)*;*

mm. *a receiving mechanism* (server **334** end of network **336**) *configured to receive a request* ***334*** *at the server from a client* **20** *to access a software feature on the client* (see para [0054], where software product sends product ID and hardware ID over network **336** to activation unit **110** of activation server **334**, which checks database **114** for records involving the received product ID to determine whether the received hardware ID is deemed an acceptable upgrade to allow running of the software), *wherein the request includes a software identifier* (product ID) *that uniquely identifies the software and a hardware configuration identifier* (hardware ID) *corresponding to a hardware profile of the client* **20** (see para [0054], where product ID and hardware ID are received by activation server **334**)*;*

nn. *a retrieval mechanism* **110** *configured to retrieve a previously stored hardware configuration identifier for the previously stored hardware configuration identifier based at least on the received software identifier* (see para [0054], where the activation unit **110** checks the database **114** for any prior records involving the product ID, and if records with the same product ID exist, the activation unit **110** evaluates the hardware IDs associated with the product IDs to determine how they have changed)*;*

oo. *a first determination mechanism* **110** *configured to determine that the received hardware configuration identifier is different from the hardware configuration identifier previously stored on the server* **334** (see para [0055], where the activation unit determines that any two hardware IDs for the same product ID differ by more than two of the five digits)*; and*

pp. *a communication mechanism configured to return software license information to the client to prevent access to the software feature* (see para [0055], where the activation unit **110** determines that any two hardware IDs for the same product ID differ by more than two of the five digits and returns a message to client **20** denying a new license file and explaining that a new license is required before the product can be reinstalled and run on the new computer).

62. Hughes does not specifically disclose *a modification date* and *a second determination mechanism configured to determine that a rate of modification for the hardware configuration is less than a permitted rate of modification for the hardware configuration, wherein the rate of modification is based on the difference between a current date and the modification date for the previously stored hardware configuration identifier modification date.*

63. Dublish teaches *a modification date* (see Abstract, where for each hardware component, the time vector may indicate an expiration period after which a change in the component may be allowed) and *a second determination mechanism configured to determine that a rate of modification for the hardware configuration is less than a permitted rate of modification for the hardware configuration* (see Abstract, where for each hardware component, the time vector may indicate an expiration period after which a change in the component may be allowed; see para [0061], where the program code execution of the invention can be executed on a machine programmable computer including a processor)*, wherein the rate of modification is based on the difference between a current date and the modification date for the previously stored hardware configuration identifier* (see Abstract, where for each hardware component, the time vector may indicate an expiration period after which a change in the component may be allowed; see also para [0053], where time vector **230** may be employed when calculating a matching score, where time vector **230** contains a value for a component that is the expiration for the use of that component in comparing the two HWIDs, such as a two year period for the CDROM component;

see also para [0054], where a license date may be included in license data **200** or, alternatively, a time vector **230** value may be expressed as a set date).

64. Therefore, it would have been obvious to one of ordinary skill in the art, at the time of invention, to add Dublish's use of time vectors of hardware components as part of a calculation of a matching score in system validation to Hughes' use of hardware identifiers to distinguish legitimate computer upgrades from the use of software on new computers.

65. A person having ordinary skill in the art would have been motivated to make this addition because it is desirable for a system "to be used for identifying and linking a licensed instantiation of software to one computer system, while tolerating changes in the computer system of a legitimate user with the flexibility required to accommodate hardware system changes and adapt to the passage of time" (see Dublish, para [0009]).

66. As per claim 81, Hughes and Dublish disclose as discussed above. Hughes further discloses *wherein while retrieving previously stored hardware configuration identifier, the retrieval mechanism is configured to retrieve a set of stored software license information corresponding to the software identifier* (see para [0054], where the activation unit **110** checks the database **114** for any prior records involving the product ID).

67. As per claim 82, Hughes and Dublish disclose as discussed above. Hughes further discloses *wherein the hardware configuration identifier contains information representing a plurality of hardware components to identify a client computer* (see para [0015], where the hardware ID identifies the set of hardware components on the computer).

68. As per claim 83, Hughes and Dublish disclose as discussed above. Dublish further discloses *wherein the hardware configuration identifier comprises a hash of values corresponding to a number of selected components on a client computer* (see para [0048], where hardware identifiers for each components are hashed to produce a hashed value, which is included in the HWID).

69. As per claim 84, Hughes discloses a *computer system* **300** *executed by a server* **334** *that comprises hardware components for dynamically managing a user software license, the computer system comprising:*

qq. *a receiving mechanism* (server **334** end of network **336**) *configured to receive a request at the server* **334** *from a client* **20** *to access a software feature on the client* **20** (see para [0054], where software product sends product ID and hardware ID over network **336** to activation unit **110** of activation server **334**, which checks database **114** for records involving the received product ID to determine whether the received hardware ID is deemed an acceptable upgrade to allow running of the software)*, wherein the request includes a software identifier* (program ID) *that uniquely identifies the software and a hardware configuration identifier* (hardware ID) *corresponding to a hardware profile of the client* **20** (see para [0054], where product ID and hardware ID are received by activation server **334**)*;*

rr. *a retrieval mechanism* **110** *configured to retrieve a previously stored hardware configuration identifier and a modification date for the previously stored hardware* *configuration identifier based at least on the received software identifier* (see para [0054], where the activation unit **110** checks the database **114** for any prior records involving the product ID, and if records with the same product ID exist, the activation unit **110** evaluates the hardware IDs associated with the product IDs to determine how they have changed)*;*

ss. *a first determination mechanism* **110** *configured to determine that the received hardware configuration identifier is different from the hardware configuration identifier previously stored on the server* **334** (see para [0055], where the activation unit determines that any two hardware IDs for the same product ID differ by more than two of the five digits)*;*

tt. *a first updating mechanism* **110** *configured to update the stored hardware configuration identifier with the received hardware identifier* (see para [0054], where the activation unit creates a new license file and returns it to the customer computer and creates a new record in the database **116**; see also para [0072], where the expanded H/W ID may include version number bits that help identify at what point in time an expanded H/W ID was created and whether or not it needs to be changed to reflect technological hardware advancements)*;*

uu. *a communication mechanism configured to return software license information to the client to grant access to the software feature* (see para [0054], where the activation unit creates a new license file and returns it to the customer computer and creates a new record in the database **116**; see also para [0050], wherein if a computer is deemed an upgrade, the software product is enabled to operate on the computer).

70. While Hughes discloses *a server* ***334****; a processor* **21** (see para [0028], where computer **20** has processing unit **21**)*; a memory* **22** (see para [0028], where computer **20** has system memory **22**)*;*

71. *a second updating mechanism configured to update the hardware configuration identifier* (see para [0054], where the activation unit **110** creates a new license file and returns it to the customer computer and creates a new record in the database **116**; see also para [0072], where the expanded H/W ID may include version number bits that help identify at what point in time an expanded H/W ID was created and whether or not it needs to be changed to reflect technological hardware advancements), Hughes does not specifically disclose a *modification date; a determination mechanism configured to determine that a rate of modification for the hardware configuration is less than a permitted rate of modification for the hardware configuration, wherein the rate of modification is based on the difference between a current date and the modification date for the previously stored hardware configuration identifier modification date;* and *an updating mechanism configured to update the hardware identifier modification date with the current date.*

72. Dublish teaches *memory* and *a processor* (see para [0061], where the program code execution of the invention can be executed on a machine programmable computer including a processor); *a modification date* (see Abstract, where for each hardware component, the time vector may indicate an expiration period after which a change in the component may be allowed) and *a mechanism configured to determine that a rate of modification for the hardware configuration is less than a permitted rate of modification for the hardware configuration* (see Abstract, where for each hardware component, the time vector may indicate an expiration period

after which a change in the component may be allowed; see para [0061], where the program code execution of the invention can be executed on a machine programmable computer including a processor), *wherein the rate of modification is based on the difference between a current date and the modification date for the previously stored hardware configuration identifier modification date* (see Abstract, where for each hardware component, the time vector may indicate an expiration period after which a change in the component may be allowed; see also para [0053], where time vector **230** may be employed when calculating a matching score, where time vector **230** contains a value for a component that is the expiration for the use of that component in comparing the two HWIDs, such as a two year period for the CDROM component; see also para [0054], where a license date may be included in license data **200** or, alternatively, a time vector **230** value may be expressed as a set date); and a *hardware identifier modification date* based on the *current date* (see para [0053], where a time vector can be set for a component relative to a license creation date at time of creation, such as a two-year period; see also para [0054], where the license date may be included in license data **200** or a time vector **230** value may be expressed as a set date).

73. Therefore, it would have been obvious to one of ordinary skill in the art, at the time of invention, to add Dublish's use of time vectors of hardware components as part of a calculation of a matching score in system validation to Hughes' use of hardware identifiers to distinguish legitimate computer upgrades from the use of software on new computers.

74. A person having ordinary skill in the art would have been motivated to make this addition because it is desirable for a system "to be used for identifying and linking a licensed instantiation of software to one computer system, while tolerating changes in the computer system of a

legitimate user with the flexibility required to accommodate hardware system changes and adapt to the passage of time" (see Dublish, para [0009]).

75. As per claim 85, Hughes and Dublish disclose as discussed above. Hughes further discloses *wherein while retrieving previously stored hardware configuration identifier, the retrieval mechanism is configured to retrieve a set of stored software license information corresponding to the software identifier* (see para [0054], where the activation unit **110** checks the database **114** for any prior records involving the product ID).

76. As per claim 86, Hughes and Dublish disclose as discussed above. Hughes further discloses *wherein the hardware configuration identifier contains information representing a plurality of hardware components to identify a client computer* (see para [0015], where the hardware ID identifies the set of hardware components on the computer).

77. As per claim 87, Hughes and Dublish disclose as discussed above. Dublish further discloses *wherein the hardware configuration identifier comprises a hash of values corresponding to a number of selected components on a client computer* (see para [0048], where hardware identifiers for each components are hashed to produce a hashed value, which is included in the HWID).

Claim Interpretation

78. After careful review of the original specification, Examiner is unable to locate any lexicographic definitions with the required clarity, deliberateness, and precision. See MPEP §2111.01 IV.

79. Examiner finds that because the Examined Claims recite neither "step for" nor "means for," the examined claims fail Prong (A) as set forth in MPEP §2181 I. Because all examined claims fail Prong (A) as set forth in MPEP §2181 I., Examiner concludes that all examined claims do not invoke 35 U.S.C. §112, 6th paragraph. See also *Ex parte Miyazaki*, 89 USPQ2d 1207, 1215-16 (B.P.A.I. 2008)(precedential).

80. Examiner hereby adopts the following definitions under the broadest reasonable interpretation standard. In accordance with *In re Morris*, 127 F.3d 1048, 1056, 44 USPQ2d 1023, 1029 (Fed. Cir. 1997), Examiner points to these other sources to support his interpretation of the claims. Additionally, these definitions are only a guide to claim terminology since claim terms must be interpreted in context of the surrounding claim language. Finally, the following list is not intended to be exhaustive in any way:

vv. ***Client***: *n.* **3.** On a local area network or Internet, a computer that accesses shared network resources provided by another computer (called a *server*). Computer Dictionary, 3rd Edition, Microsoft Press, Redmond, WA, 1997.

ww. ***Computer***: *n.* Any machine that does three things: accepts structured input, processes it according to prescribed rules, and produces the results as output." Computer Dictionary, 3rd Edition, Microsoft Press, Redmond, WA, 1997.

xx. ***Server***: *n.* **2.** On the Internet or other network, a computer or program that responds to commands from a client. Computer Dictionary, 3rd Edition, Microsoft Press, Redmond, WA, 1997.

Conclusion

81. The prior art made of record which is considered pertinent to Applicants' disclosure is listed on the document titled 'Notice of Reference Cited' ("PTO-892") Unless expressly noted otherwise by the Examiner, all documents listed on the PTO-892 are cited in their entirety.

82. Applicants are respectfully reminded that any suggestions or examples of claim language provided by the Examiner are just that – suggestions or examples – and do not constitute a formal requirement mandated by the Examiner. To be especially clear, any suggestion or example provided in this Office Action (or in any future Office Action) does not constitute a formal requirement mandated by the Examiner.

yy. Should Applicants decide to amend the claims, Applicants are also reminded that – like always – no new matter is allowed. The Examiner therefore leaves it up to the Applicants to choose the precise claim language of the amendment in order to ensure that the amended language complies with 35 U.S.C. § 112, 1st paragraph.

zz. Independent of the requirements under 35 U.S.C. § 112, 1st paragraph, Applicants are also respectfully reminded that when amending a particular claim, all claim terms must have clear support or antecedent basis in the specification. See 37 C.F.R. § 1.75(d)(1) and MPEP § 608.01(o). Should Applicants amend the claims such that the claim language no longer has clear support or antecedent basis in the specification, an objection to the specification may result. Therefore, in these situations where the amended claim language does not have clear support or antecedent basis in the specification and to prevent a subsequent 'Objection to the Specification' in the next office action, Applicants are encouraged to either (1) re-evaluate the amendment and change the claim language so the claims *do* have clear support or antecedent basis or, (2) amend the specification to ensure that the claim language does have clear support or antecedent basis. See again, MPEP § 608.01(o)(¶3). Should Applicants choose to amend the specification, Applicants are reminded that – like always – no new matter is allowed. See 35 U.S.C. § 132(a). If Applicants have any questions on this matter, Applicants are encouraged to contact the Examiner via the telephone number listed below.

83. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to TOMAS PRIETO whose telephone number is (571) 270-5959. The Examiner can normally be reached on Monday - Thursday, 8:30am- 5:00pm.

84. If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Andrew Fischer can be reached on (571) 272-6779. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

85. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would

like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Examiner, Art Unit 3621

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